

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-3697

Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis; Zachery S. King;
Collette Brown

Plaintiffs - Appellees

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

Defendant - Appellee

North Dakota Legislative Assembly

Movant - Appellant

William R. Devlin, Representative also known as Bill Devlin; Senator Ray Holmberg,
Representative; Senator Richard Wardner, Representative; Senator Nicole Poolman,
Representative; Michael Nathe, Representative; Terry Jones, Representative; Claire Ness, Senior
Counsel at the North Dakota Legislative Council

Movants

No: 24-1171

Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis; Zachery S. King;
Collette Brown

Plaintiffs - Appellees

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

Defendant - Appellee

North Dakota Legislative Assembly

Movant - Appellant

William R. Devlin, Representative also known as Bill Devlin; Senator Ray Holmberg,
Representative; Senator Richard Wardner, Representative; Senator Nicole Poolman,

Representative; Michael Nathe, Representative; Terry Jones, Representative; Claire Ness, Senior Counsel at the North Dakota Legislative Council

Movants

Appeals from U.S. District Court for the District of North Dakota - Eastern
(3:22-cv-00022-PDW)

JUDGMENT

Before COLLOTON, Chief Judge, GRUENDER, and KOBES, Circuit Judges.

These appeals from the United States District Court were submitted on the record of the district court, briefs of the parties and were argued by counsel.

After consideration, it is hereby ordered and adjudged that the appeal is dismissed as moot in accordance with the opinion of this Court.

May 14, 2025

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

United States Court of Appeals
For the Eighth Circuit

No. 23-3697

Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis;
Zachery S. King; Collette Brown

Plaintiffs - Appellees

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

Defendant - Appellee

North Dakota Legislative Assembly

Movant - Appellant

William R. Devlin, Representative also known as Bill Devlin; Senator Ray
Holmberg, Representative; Senator Richard Wardner, Representative; Senator
Nicole Poolman, Representative; Michael Nathe, Representative; Terry Jones,
Representative; Claire Ness, Senior Counsel at the North Dakota Legislative
Council

Movants

No. 24-1171

Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis;
Zachery S. King; Collette Brown

Plaintiffs - Appellees

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

Defendant - Appellee

North Dakota Legislative Assembly

Movant - Appellant

William R. Devlin, Representative also known as Bill Devlin; Senator Ray Holmberg, Representative; Senator Richard Wardner, Representative; Senator Nicole Poolman, Representative; Michael Nathe, Representative; Terry Jones, Representative; Claire Ness, Senior Counsel at the North Dakota Legislative Council

Movants

Appeal from United States District Court
for the District of North Dakota - Eastern

Submitted: October 22, 2024

Filed: May 14, 2025

Before COLLOTON, Chief Judge, GRUENDER and KOBES, Circuit Judges.

GRUENDER, Circuit Judge.

The facts of this case are set out in *Turtle Mountain Band of Chippewa Indians v. Howe*, No. 23-3655, ___ F.4th ___ (8th Cir. May 14, 2025). In this appeal, North Dakota's Legislative Assembly seeks to intervene in *Turtle Mountain Band of Chippewa Indians v. Howe* to appeal the district court's order imposing the remedial map. Because we concluded in *Turtle Mountain Band of Chippewa Indians v. Howe*

that the plaintiffs do not have a cause of action and, therefore, vacated the judgment of the district court, we dismiss this appeal as moot.

COLLTON, Chief Judge, dissenting.

Having voted to affirm in No. 23-3655, I do not believe that these appeals should be dismissed as moot. I would affirm the district court's order denying the North Dakota Legislative Assembly's motion to intervene on the ground that the motion was untimely. *See* Fed. R. Civ. P. 24; *United Food & Com. Workers Union, Local No. 663 v. U.S. Dep't of Agric.*, 36 F.4th 777, 780 (8th Cir. 2022). I would affirm the district court's order denying the Assembly's motion for extension of time to file a remedial plan, because the Assembly was afforded a reasonable opportunity to submit a plan, and no party to the case sought an extension of time.
